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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/923,936 | 08/07/2001 | Eric Romanski | 2126-179 | 5169 |
| 20999 | 7590 | 12/01/2003 | EXAMINER | |
| FROMMERM LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151 | | | WRIGHT, ANDREW D | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3617 | | |

DATE MAILED: 12/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|---------------------------------|
| Office Action Summary | Application No. | Applicant(s) ROMANSKI ET AL. |
| | 09/923,936 | |
| | Examiner | Art Unit |
| | Andrew Wright | 3617 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 October 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
 - 4a) Of the above claim(s) 5-13 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4,5,6</u> . | 6) <input checked="" type="checkbox"/> Other: <u>EXAMINER'S AMENDMENT</u> |

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Lay
16/18/03

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Ronald Santucci on 11/18/03. The application has been amended as follows:

Claim 1, line 8, "and" has been changed to --and/or--;

Claim 1, line 10, "and" has been changed to --and/or--.

2. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1113.

Andrew D. Wright
Patent Examiner
Art Unit 3617

DETAILED ACTION

Election/Restrictions

1. Applicant's election of claims 1-4 in Paper No. 10 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 5-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10.

Claim Objections

3. Claims 2 and 4 are objected to. Claims 2 and 4 recite the limitation (a first side" and "a second side" after the first and second sides have already been positively recited in claim one. Double recitation of the same element is improper. It is clear from the specification and claim language that these recitations refer to the same elements, and this will be assumed for examination. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 recites "a thermoplastic coating". Claim 3 recites "a thermoplastic coating". Claim 4 recites "a first thermoplastic coating" and "a second thermoplastic coating". It is unclear if the subsequent positive recitations of coatings refer to the coating recited in claim 1 or different coatings. The specification contemplates both single and multiple coatings. This renders the claims indefinite.

7. Claim 3 recites the limitation "the voids" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Knaus et al. (US 3,779,196). Knaus discloses a vessel comprising an elongated, flexible tubular structure (2). The structure has an inside and an outside, front end and rear end, means for sealing the ends, and means for filling and emptying. Knaus teaches that the tubular structure (2) is made up of nylon cloth coated with material such as polyurethane or the like. It is well known and common to make fluid-carrying

barriers impervious to fluids for the purpose of keeping the cargo fluid inside the barge and the sea water outside the barge. The skilled artisan will recognize that the polyurethane coating is a thermoplastic coating that renders the fabric impervious. The woven cloth disclosed by Knaus will necessarily have sides formed by stitching points.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 3 and 4 are 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knaus et al. (US 3,779,196) in view of Scott (US 2,391,926). Knaus does not disclose that the fabric is formed of yarns with a thermoplastic coating. Knaus does not disclose that the fabric has a first coating on one side and a second different coating on the other side. It is known to coat a fabric by a variety of methods including: applying the coating to the finished fabric, and coating sufficient individual yarns before weaving and then heat treating the fabric to melt the coating. Scott teaches that a fluid barge can have different coating on the inside and outside. Knaus teaches that the coating can be polyurethane or the like. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Knaus by providing different coatings on the inside and outside, as taught by Scott for the purpose of being

insoluble to different liquids. And it would have been obvious to use thermoplastics as is well known in the art.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Crimmins teaches that it is known to use a urethane coated fabric bag to hold water.

13. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1113.

Andrew D. Wright
Patent Examiner
Art Unit 3617



11/18/07